

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MICHAEL JERRY BEEBE,

Case No. 08-14995

Plaintiff,

David M. Lawson

v.

United States District Judge

THOMAS BIRKETT, TIM BEAVERS,
WILLIE O. SMITH, GERRY WYMA,
and DAVE BURNETT,

Michael Hluchaniuk
United States Magistrate Judge

Defendants.

**ORDER DENYING IN PART AND GRANTING IN PART
DEFENDANTS' MOTION TO STAY DISCOVERY (Dkt. 15)**

This is a prisoner civil rights matter referred to the undersigned by District Judge David M. Lawson for all pretrial purposes. Plaintiff claims that defendants violated his constitutional rights by denying him access to certain religious services and the Kosher meal program. (Dkt. 1). On June 4, 2009, defendants filed a motion to stay discovery because plaintiff filed a discovery request before defendants filed a responsive pleading. (Dkt. 15). Defendants would like discovery to be stayed while the Court decides the “threshold” issues of exhaustion, immunities, and whether the claims asserted by plaintiff are cognizable. Defendants asserts that plaintiff’s complaint was not “screened” by the Court before it was docketed as required under the Prison Litigation Reform Act (PLRA). Plaintiff filed a response on June 30, 2009 in which he argued that he

needs discovery in order to respond to defendants' motion for summary judgment. (Dkt. 22). Defendants filed a motion for summary judgment on June 15, 2009. (Dkt. 17). Defendants attached various affidavits and other materials.

The Court performed its screening duties under the PLRA and thus finds no basis to stay the discovery already requested by plaintiff, especially in light of defendants' having filed a motion for summary judgment with a number of affidavits attached. The discovery sought appears reasonably related to the issues raised in defendants' motion for summary judgment. Further, defendants did not argue that plaintiff's discovery requests are unrelated to his claims, unrelated to the issues presented in their motion for summary judgment motion, or that it would be unduly burdensome to respond to them. However, this Order should not be construed to allow plaintiff to proceed with whatever discovery he wishes. Rather, the discovery allowed is limited to the discovery propounded by plaintiff as attached to defendants' motion to stay. Under the circumstances, defendants' motion to stay discovery is **DENIED** in part and **GRANTED** in part.

IT IS SO ORDERED.

The parties to this action may object to and seek review of this Order, but are required to file any objections within 10 days of service as provided for in 28 U.S.C. § 636(b)(1) and Local Rule 72.1(d)(2). A party may not assign as error any defect in this Order to which timely objection was not made. Fed.R.Civ.P. 72(a).

Any objections are required to specify the part of the Order to which the party objects and state the basis of the objection. Pursuant to Local Rule 72.1(d)(2), any objection must be served on this Magistrate Judge.

Date: November 25, 2009

s/Michael Hluchaniuk
Michael Hluchaniuk
United States Magistrate Judge

CERTIFICATE OF SERVICE

I certify that on November 25, 2009, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system, which will send electronic notification to the following: Julia R. Bell, and I certify that I have mailed by United States Postal Service the paper to the following non-ECF participants: Michael Beebe, #240491, MACOMB CORRECTIONAL FACILITY, 34615 26 Mile Road, New Haven, MI 48048.

s/Tammy Hallwood
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